

**MINUTES OF THE TYNGSBOROUGH CONSERVATION COMMISSION MEETING
TOWN OFFICES COMMUNITY ROOM
March 22, 2005**

Present

Jeff Kablik, Chairperson	JZ: Jeanne Zarba	Lori Capone, Director
LG: Lucy Gertz, Vice Chair	HJ: Henry Jungmann	Gloria Clancy, Clerk
BL: Brian Logue	RS: Robert Sherburne	
LB: Laura Bride, Associate Member		

Absent

CH: Cynthia Hanna	FZ: Frank Zarba, Associate Member
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7:00 Meeting opened by Jeff Kablik, Chairperson

7:02 Missick Realty Trust – 100 Massapoag Road – Notice of Intent: (Map 3, Parcel 4) (Continued from 5/25, 6/8, 7/27, 9/28, 10/26 & 11/9/04 and 1/25/05) Proposed five (5) lot residential subdivision with driveways, grading, grass swale and associated utilities within the buffer zone. LC said the applicant has requested to continue the hearing to 8:00 PM tonight, as they have another hearing set for then for the Roadway.

HJ: Motion to continue this hearing to 8:00 PM this evening.

RS: 2nd.

Unanimous. 6-0

7:15 (7:06) Blair J. Finnegan, Tyngsboro Partners LLC – 169 Westford Road – Notice of Intent: (Map 15, Parcels 13 and 8) (Continued from 11/9 & 12/28/04, 1/25, 2/8 & 2/22/05) Construction of 92 detached condominiums with associated driveways, roadway and utilities some of which is within the 100 buffer zone and riverfront area.

HJ: Motion to waive the reading of the Legal Notice.

JZ: 2nd.

Unanimous. 6-0

HJ: Motion to waive the reading of the Abutter List.

JZ: 2nd.

Unanimous. 6-0

Joe Peznola of Hancock Associates was present to represent the applicant Blair J. Finnegan who was also present along with David Sears, both of Tyngsboro Partners LLC. JK asked that Joe summarize the evidence presented at the last hearing, as some of the members present tonight were not in attendance last meeting. Joe did so summarize. Then he moved on to explain the alternatives analysis as requested by the Commission last meeting. He passed out revised copies of proformas for 92 units and for 88 units. He gave a history of the project from the first submission to ZBA to the current proposal. JK clarified the interpretation of economic feasibility vs. impact to wetlands. Joe explained that there was no impact at 76 units, but they would not be able to offer the Town a new Senior Center, donations towards a much needed new water tower, and donations to the Sewer Commission. The loss in revenue for every 4 units is \$400,000. Joe turned the presentation over to David Sears for a more detailed explanation of the finances involved. They also passed out a copy of a letter from Enterprise Bank stating their position that “any reduction below 92 units would cause concern as to the feasibility of the project”. JK asked for LC’s comments on technical issues. She went over some plan designations that were agreed on at the last meeting that are still not on the plans. She also pointed out the need for some By-law fees. LC handed out the most recent review from David

Sanderson of Edwards & Kelcey questioning riverfront calculations. Members asked the applicant to perform some ground survey work to substantiate the location of the perennial streams and their associated riverfront areas as depicted on the plans along with supplying the Commission with the aerial photos the applicant used to locate these resource areas. JK asked for further member comments and abutter questions. There were none.

JZ: Motion to continue this hearing to April 12 at 7:02 PM.

RS: 2nd.

Unanimous. 6-0

7:30 Linnette Rivera – 12 River Bend Road – Notice of Intent: (Map 20B, Parcel 29, Lot 12) (Continued from 2/22/05) Installation of a dock along the Merrimack River, and proposed clearing of 25'x25' area for parking within the 200' Riverfront Area.

HJ: Motion to waive the reading of the Legal Notice.

RS: 2nd.

Unanimous. 6-0

HJ: Motion to waive the reading of the Abutter List.

JZ: 2nd.

Unanimous. 6-0

At the last hearing the Commission requested a more detailed plan. Mike Turgeon submitted a new plan. He told the members that the flood plain elevation is 107.5' based on the FEMA Maps. The edge of the River, BVW, and Inner and Outer Riparian Areas are delineated. The 107.5' floodplain elevation is staked out in the field. LC has walked the area with him. A few small trees need to be cleared to make the unpaved parking area 20' from the western lot line. No grading is proposed. The dock will be a floating dock, made of pressure-treated boards on plastic floatation. No pressure treated wood will be in contact with the water. LC asked if they intend to launch boats from the area. They do not. LC does not feel there will be any impact to the resource area. JK opened the hearing to abutter questions. There were many abutters present. Some who voiced concerns about possible impact to their properties were Paul & Barbara Monleon of 25 River Bend Road and Donna Peredina of 10 River Bend Road. Ms. Peredina showed an as-built of her septic system and claims that the leach field is on Ms. Rivera's property in the proximity of the proposed parking area. JK suggested that she check with the Board of Health to see if they feel the project will impact her system. The members decided to hold a site visit on Saturday, April 2 at 11:30 AM.

LG: Motion to continue to 4/12 at 7:15 PM.

BL: 2nd.

Unanimous. 6-0

7:45 (8:50) Applewood Construction Corp - 75 Lakeview Avenue – Abbreviated Notice of Resource Area Delineation: (Map 25, Parcel 58) Verification of resource area delineations of bordering vegetated wetland, riverfront area of Lawrence Brook and flood plain area.

HJ: Motion to waive the reading of the Legal Notice.

RS: 2nd.

Unanimous. 6-0

HJ: Motion to waive the reading of the Abutter List.

JZ: 2nd.

Unanimous. 6-0

Steve Eriksen of Norse Environmental Services, Inc. representing the applicant, presented the

plan. LC had walked the property and agreed with the flags in the field, but pointed out some discrepancies on the plan. Steve agreed to correct the plan. JK asked for member comments and then abutter questions. There were many abutters present. Ken Times, 91 Frost Road, voiced concern that development of this area would cause flooding of his farmland. JK informed him that this filing is only to verify the location of wetland resource areas on site. Development of the area would require a Notice of Intent. Elizabeth Coughlin, 61 Lakeview Avenue, commented that that land has been undisturbed for over 60 years. There is a lot of wildlife habitat and potential vernal pool habitats that will be endangered. She also does not see how a true delineation could be performed with so much snow cover. Steve responded that he does delineations year round; that there are signs above ground and soils can be tested using an auger. He says that he actually was conservative in his flagging. LC agreed. Elizabeth Coughlin and Randy Dean, 67 Lakeview Avenue, pointed out what they feel is another perennial stream that isn't referenced on the plan. Steve insisted that if it isn't on the USGS as perennial, it is to be considered intermittent unless it can be proven otherwise. The members would like LC to go back out and re-look at that stream. Cathy Mondazzi, 20 Gloria Avenue, questioned how they could be advertising houses for sale if they haven't even gone through the permitting processes yet. JK told her that people can advertise what they want; that the Commission is only here to protect the wetland and that at this point they are just requesting to verify the delineation.

JZ: Motion to continue this hearing to April 12 at 7:30 PM.

HJ: 2nd.

Unanimous. 6-0

8:00 (9:45) Missick Realty Trust - Massapoag Roadway – Notice of Intent: (Map 3, Parcels 2,3,4,4-4,4-5,4-6 & 4-7) Proposed roadway improvement, parking, drainage, grading, and associated utilities within the buffer zone of Lake Massapoag and the 200' riverfront area of a perennial stream.

And

7:02 (continued to 8:00)(9:45) Missick Realty Trust – 100 Massapoag Road – Notice of Intent: (Map 3, Parcel 4) (Continued from 5/25, 6/8, 7/27, 9/28, 10/26 & 11/9/04 and 1/25/05) Proposed five (5) lot residential subdivision with driveways, grading, grass swale and associated utilities within the buffer zone.

HJ: Motion to waive the reading of the Legal Notice.

RS: 2nd.

Unanimous. 6-0

HJ: Motion to waive the reading of the Abutter List.

JZ: 2nd.

Unanimous. 6-0

Steve Eriksen presented the newest plan for the roadway and explained the stormwater management design. LC told him she would like him to submit new NOIs for both projects as the current ones contain mixed information. He agreed. JK asked for comments from the members and then opened the discussion to the many abutters present. Jim Baker, 130 Massapoag Road, wanted to know where this project is in relation to his property. Dana Huntley, 96 Groton Road, would like to know what is planned for the remainder of the applicants property, namely the quarry-like area behind the planned homes. He feels that it will be a hazard if it is left as is. The applicants were not present to answer that question. Nancy & Charlie Todd, 104 Island Pond Road, both asked questions and voiced concerns over protecting the

Minutes 3/22/05 continued

resource areas. Elizabeth Coughlin, 61 Lakeview Avenue, asked if the roadway will be paved, and are there provisions for oil, grease, etc. Steve said yes it would be paved, pitched away from Massapoag Pond with a berm, which will direct drainage into a grassy swale, which will filter out those contaminants.

HJ: Motion to collect \$2000 from the applicant to cover engineering reviews and to set up a 53 G account for said reviews.

JZ: 2nd.

Unanimous. 6-0

JZ: Motion to continue both Missick Realty hearings to April 26 at 7:02 PM.

BL: 2nd.

Unanimous. 6-0

Other Business:

❖ **Selectman Rich Lemoine**, who had been present for most of this meeting, commented that he is very impressed with the intensity of our agenda this evening and the way the Commission thoroughly addressed any and all issues. He thanked the members for their dedication and service.

❖ **Director's Determination for 61 Scribner Road.** The owner has requested permission to place a 12'x14' shed on blocks 90' from a resource area, on flat ground.

HJ: Motion to approve the Director's Determination for 61 Scribner Road.

RS: 2nd.

Unanimous. 6-0

❖ **The Director** reminded the members to go over the copy of a **letter to the Selectmen** from the Commission regarding the potential sale of a portion of the recently acquired **Green Property**. It requests that in the event of such a sale, that the remainder of the property has a **Conservation Restriction** placed on it. If they would read it over and make suggestions and/or sign it at the next meeting.

❖ **LC** referred to items in their packet concerning: Well Protection District By-Law; Stormwater revisions in our Regulations; Changes in DEP regulations (look up on their website). LC also told the members of a budget meeting to be held at Town Hall Wednesday at 2 PM. They might be interested in some of the possible cuts that will be discussed.

❖ **Director's Determination for Paul Monleon, 25 River Bend Road.** The applicant requests permission to remove a dead Red Maple from the bank of the river, and a dying Pine tree 175' from the bank. The members agreed that they would like to hold off on voting on this until after the site visit at Lot 12 River Bend Road. They will look at these trees at that time.

❖ Request for a Certificate of Compliance for James Wagner, 127 Frost Road. This OOC was for paving of the driveway. She inspected the project area and everything is completed and stabilized.

JZ: Motion to issue a Certificate of Compliance for James Wagner, 127 Frost Road.

RS: 2nd.

Unanimous. 6-0

Minutes 3/22/05 continued.

- ❖ Request for a Certificate of Compliance for Richard & Gail Sigman, 3 Gail Avenue. This OOC was for a pool. She inspected the project area and everything is completed and stabilized.

BL: Motion to issue a Certificate of Compliance for 3 Gail Avenue.

JZ: 2nd.

Unanimous. 6-0

- ❖ HJ discussed with members ways in which the Sherburne Property could be made handicapped accessible to comply with the ADA requirements of the Open Space and Recreation Plan.

- ❖ **HJ: Motion** to approve the Minutes of 2/22/05.

JZ: 2nd.

6 Yeas 1 Abstained (LG had not been present).

Motion Carried.

JZ: Motion to adjourn.

HJ: 2nd

Unanimous. 6-0

Meeting adjourned at 10:20 P.M.

Respectfully submitted by Gloria Clancy, Clerk